

MEETING SUMMARY

National Environmental Conflict Resolution Advisory Committee

May 13-14, 2004

Doubletree Hotel at Reid Park

Tucson, Arizona

MEETING ATTENDANCE

Committee Members and Surrogates

Tom Jensen, Troutman Sanders, L.L.P., Committee Chair

Don Barry, The Wilderness Society

Alex Beehler, U.S. Department of Defense

Brent Blackwelder, Friends of the Earth

Lori Brogoitti, Oregon Wheat Grower's League

Cindy Burbank, Federal Highway Administration

Chris Carlson, Policy Consensus Initiative

Larry Charles, Hartford, CT

John Ehrmann, Meridian Institute

Harry Grant, Riddell Williams, P.S.

Chris Kearney, U.S. Department of the Interior

Pauline Milius, U.S. Department of Justice

Anne Miller, U.S. EPA

Julia Riber, USDA Forest Service

P. Lynn Scarlett, U.S. Department of Interior

Mark Schaefer, NatureServe

Jim Souby, Oquirrh Institute

Dean Suagee, Hobbs, Straus, Dean, and Walker, LLP

Committee Detail Staff:

Jo Barnier Reyer, USDA Forest Service

Cheryl Caldwell, U.S. Geological Survey

David Emmerson, U.S. Department of Interior

Howard Levine, BLM – Milwaukee Field Office

Morris K. Udall Foundation Board & Staff

Kirk Emerson, Designated Federal Officer (DFO)

Ellen Wheeler, Committee Management Officer (CMO)

Terry Bracy, Chair, Morris K. Udall Foundation Board of Trustees

Chris Helms, Executive Director, Morris K. Udall Foundation

Tina Gargus, Special Projects Coordinator (Recorder)

Wendy Oden, Communications Manager

Observers

Joan Calcagno, U.S. Institute for Environmental Conflict Resolution

Mike Eng, U.S. Institute for Environmental Conflict Resolution

Larry Fisher, U.S. Institute for Environmental Conflict Resolution
Sarah Palmer, U.S. Institute for Environmental Conflict Resolution

MEETING SUMMARY

Thursday, May 13, 2004

Kirk Emerson opened the meeting at 8:15 a.m.

Welcome and Introduction – Tom Jensen

Tom Jensen discussed the format of the meeting and said the first task for the Committee would be to understand the recommendations presented by the Affected Communities, Best Practices and NEPA Section 101 Subcommittees and how they relate to each other.

The second task would be for the committee to discuss integration of the recommendations and focus on implementation and prioritization for the U.S. Institute. He added that it would also be important to hear from the U.S. Institute staff on whether these goals set forth are achievable and to understand the Institute's priorities and resources.

In June, the Drafting Committee will be meeting in Wyoming to draft the recommendations in the form of a report for to the U.S. Institute and also for presentation to other audiences. This report will be geared towards the future of the U.S. Institute and the implementation of NEPA Section 101. This meeting will focus on the hand-off of this package of recommendations to the Drafting Committee.

Kirk Emerson reminded the committee that the U.S. Institute is a program of the Morris K. Udall Foundation, and that the committee's report would also go to the Foundation Board. She added that the U.S. Institute would also be seeking advice on ideas for implementation of these recommendations.

U.S. Institute Update – Kirk Emerson

Emerson updated the group on the programs and activities of the U.S. Institute, including the Native American Practitioner Network, Evaluation Program, CEQ Initiative, and national ECR conference scheduled for May 2005.

Comments from Terry Bracy, Morris K. Udall Foundation Board of Trustees Chair

Terry Bracy thanked the committee members for their commitment of effort and time to the work that has been done. He said the Udall Foundation appreciated the committee's guidance to the U.S. Institute. .

Presentation of Subcommittee Recommendations

Best Practices Subcommittee – Chris Carlson and Cindy Burbank

The subcommittee generated six recommendations, the first three of which targeted federal agencies. The first recommendation was to work with CEQ to help promote ECR practices and collaboration. Additionally, the subcommittee recommended that the U.S. Institute develop interagency training on ECR and collaborative planning.

The subcommittee tried to build the interests of the other NECRAC Subcommittees into all of its recommendations.

Cindy Burbank discussed the linkage and compatibility between some of the subcommittee's recommendations and the recommendations of the other subcommittees. Some examples are the recommendations for the Institute to work with CEQ and to develop training for federal agencies on NEPA 101 and ECR Best Practices.

Burbank discussed the idea of changing the title of the subcommittee to "ECR and Collaboration Capacity Building for Federal Agencies." This would better reflect the focus of the subcommittee's recommendations.

Affected Communities Subcommittee – Larry Charles

Larry Charles said the subcommittee worked to identify key principles and strategies for engaging affected communities in collaborative processes and the barriers for participation. The subcommittee also attempted to define the term "community." The subcommittee developed specific recommendations based on these findings.

The major themes that came out of the subcommittee's recommendations are compatible with other subcommittees and include training and identifying resources such as a roster of NEPA experts.

John Ehrmann discussed the importance of preserving the work of the cross interest groups on the Affected Communities Subcommittee recommendations. A strong emphasis on the targeted audience of the Affected Communities Subcommittee's recommendations needs to be retained.

Review of Affected Community Subcommittee Recommendations Report and Committee Feedback:

Charles and Ehrmann asked for committee feedback on the definition of "affected community" as suggested by the subcommittee. Larry noted that the definition of "affected communities" is not limited to those communities local to the conflict ("the locals").

Jim Souby commented that the interest of national groups needed to be included in the definition of affected communities and said the subcommittee has struggled with this.

The committee discussed the various communities of interest that might make up “affected communities.”

Harry Grant suggested focusing on ECR and the durability of an agreement, and including in the term “affected communities” those that need to be involved in a conflict resolution process for the agreement to last.

Chris Kearney acknowledged that although national interests are affected by decision outcomes, it is obvious that people affected on a local level are more directly affected.

Ehrmann clarified that this report was aimed at federal agencies to help them think about their role in collaborative processes. The diagram in Figure 1 of the report was aimed at showing those parties that should be seated at the table in an effective collaborative process.

Charles discussed the way the definition of “community” changes over time in a collaborative process.

Ehrmann clarified the three themes outlined in the subcommittee report:

1. Agencies should work with community leadership.
2. A decision on who gets a seat at the table should be a decision by everyone involved in a collaborative process.
3. All participants should be involved in the process design.

NEPA Section 101 Subcommittee – Don Barry and Chris Kearney (for Lynn Scarlett)

The NEPA Section 101 Subcommittee attempted to understand the relationship between NEPA Section 101 and ECR. The subcommittee first wanted to find out how the agencies understood NEPA 101 and how it was integrated it into their work.

The case study report identified a real need for education on NEPA 101 and how it can be helpful in conjunction with ECR. The subcommittee also identified a need for upstream work. Additionally, there was an interest in collaborative monitoring.

Kearney discussed the subcommittee recommendations and how there is a real connection between NEPA 101 and best practices of ECR. The subcommittee discovered that federal agencies had a wide variation on how they used NEPA Section 101. The subcommittee recommended that the U.S. Institute develop a training that highlights and educates agencies on NEPA Section 101.

Don Barry discussed case study findings reported in the Case Study Matrix document, particularly some of the challenges and barriers discovered. The case Study Matrix also explains where in a process there are elements for success. He recommended the addition of two columns to the matrix for follow-up items and procedural requirements in the downstream process.

Grant discussed the work of the Collaborative Monitoring Working Group. With the technical assistance from Larry Fisher, Senior Program Manager at the U.S. Institute, the working group was able to identify opportunities for the U.S. Institute to become involved in this emerging area of practice.

Grant added that there is a strong emphasis in the Affected Communities Subcommittee recommendations on getting technical knowledge out to affected communities and this could include knowledge on collaborative monitoring. Additionally, collaborative monitoring techniques could also be added to the Best Practices toolkit.

Review of NEPA Section 101 Subcommittee Recommendations Report and Committee Feedback:

Charles suggested that the subcommittee conduct rural and urban case studies and incorporate them into the case studies report.

Committee Advice for the Drafting Committee/ Committee comments on Overall Recommendations

The committee recommended a future discussion on various ways some of the recommended programs and initiatives can be funded.

Souby recommended a sidebar list of guidance or instructions for the Drafting Committee when working on the final NECRAC report.

In regard to implementation of the recommendations, the Institute's annual funding impacts what the U.S. Institute will be able to accomplish.

Brent Blackwelder made some suggestions for policy focus, such as the enhancement of communities and the preservation of environmental resources. He encouraged the Drafting Committee to focus on the greater scope of the impacts of the implementation of NEPA 101.

Dean Suagee suggested that the Drafting Committee consider the integration of the other NEPA sections with section 101 and discussed the importance of cultural/historical preservation.

Subcommittee Recommendations Themes/Categories

Jensen identified three overlapping themes within the recommendations from the subcommittees (and the committee identified one more):

1. Policy Leadership
 - Cause agency leadership to champion the ECR-section 101 policy connection within agencies, championing upstream approaches, use foresight
 - Identify and address legal (and administrative) barriers, identify resources and other incentives

- Incorporate goal of early and effective participation by affected communities
- 2. Support for and Service to Federal Agencies
 - Training for individual agency staff, engaging agency leaders (includes tribes)
 - Multi-agency/cross-agency training
 - Removal of legal (real or perceived) impediments
 - Toolkit and materials
 - Workshops
 - GIPRA measures, incentives to management
 - New/expanded roster(s)
- 3. Extension to Non-federal Entities
 - Training for non-federal stakeholders
 - Targeted/expanded ECR fund use
 - Public-private exchange programs
 - Training for non-federal governments
- 4. Research and Development
 - Research agenda
 - Research “upstream” and other pilots/experiments
 - Case study analysis
 - Professional development of roster members
- 5. Others/Institutional
 - New NECRAC “upstream” committee

Jensen suggested this list as a tool to identify the shared concepts within the subcommittees and to help the Drafting Committee organize the final recommendations report.

Burbank suggested revising the language so that these themes capture adequately what the recommendations entail. She suggested that the cross-agency recommendations include areas for affected communities.

Emerson suggested the committee as a whole brainstorm the themes that could provide an integrated structure for the individual recommendations.

Actions on Recommendations and Reports

Emerson updated the committee on the Institute’s current services and activities and described the direct audiences. In the context of direct audiences and prioritizing the list of recommendations, Emerson asked the committee to think about some of the audiences that the U.S. Institute is not currently reaching. She asked the committee to also

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recommend ways that the U.S. Institute could accomplish some of the high priority recommendations and initiatives.

Meeting adjourned: 5:01pm

MEETING SUMMARY

FRIDAY, MAY 14, 2004

Kirk Emerson opened the meeting at 8:15 a.m.

Approval of the November 2003 Meeting Minutes

The Committee reviewed and approved the November meeting minutes.

Review of Subcommittee Recommendations

The committee reviewed the Affected Subcommittee recommendations and accepted the recommendations by consensus.

The committee reviewed the Capacity Building for ECR and Collaboration Subcommittee Recommendations (formerly the Best Practices Subcommittee) and accepted the recommendations by consensus.

The Committee reviewed the NEPA Section 101 Subcommittee recommendations and accepted the recommendations by consensus.

Regarding the NEPA Section 101 Subcommittee's recommendation #3 – there was some discussion on the questions Dinah Bear had raised on NEPA. Howard Levine has created a document titled the "Twenty Most Asked Questions Regarding the Use of Environmental Conflict Resolution in the NEPA Process." Any input the Committee has should be forwarded to Levine.

Prioritization of Recommendations

Emerson asked the group to look at each subcommittee recommendation and see where it fits within the Institute goals, and make recommendations for short or long-term goals.

The committee thought it would be helpful to identify if some of the recommendations already exist such as training programs.

The committee discussed the general direction of a straw poll process that could provide some direction to the Drafting Committee. The discussion indicated that results of this process might need to be reviewed again, including the committee members who were not present for the straw poll.

Tom Jensen asked whether the polling exercise provided adequate information on the committee's priorities for the Drafting Committee, and the committee agreed.

Julia Riber suggested that the Institute provide some feedback on the feasibility of implementing the committee's recommendations. She suggested this information could be brought to the Drafting Committee.

Some of the ambiguity and weighting of the recommendations will be worked out when the recommendations are closely reviewed.

Role of Drafting Committee

Jensen discussed the Drafting Committee meeting scheduled for June 23-24, 2004, in Greybull, Wyoming, at Stan Flitner's ranch. The day before, there will be a public forum coordinated by the Wyoming Governor's office on the use of NEPA 101.

The Drafting Committee members are:

Stan Flitner, Larry Charles, Chris Kearney, Dinah Bear, Dean Suagee, Polly Milius, Tom Jensen, John Ehrmann, Mark Schaefer and Brent Blackwelder.

The Drafting Committee will take the information from this meeting and will draft an outline of the report as well as review the current working documents, and will focus on writing the final draft at the meeting in Wyoming.

Drafting Committee Issues Bin

1. Define upstream / downstream
2. Clarify acronyms
3. Get list of available federal grant programs for CMAS efforts
4. Identify other agencies / organizations that might be able to do some of this
5. Feasibility
6. Ensure products don't get lost within the report
7. Use all materials (as much as possible)
8. Keep intent of subcommittees in mind when doing any rewording
9. The Drafting Committee should draft a NECRAC letter for dissemination of the report.

There was discussion on the current committee working documents that have been produced, some of which have been approved, and the committee agreed it would be important to track the documents that have been updated and improved.

Lynn Scarlett discussed the importance of including all of the subcommittee working documents into the report, and added that these should be a fundamental part of the report.

The committee discussed the U.S. Institute as the primary audience for the final NECRAC report. Scarlett commented that she thought the audience for the report was broader than just the U.S. Institute. She felt the audience should include Congress, agencies and affected communities. She said that is the decision-making audience that is working with the use of ECR in connection with NEPA Section 101. She thought the report should also demonstrate the substance of creative thought, research and evidence that the committee has produced.

Emerson confirmed that the audience does reach more broadly and discussed the option of a more strategic report to the U.S. Institute.

Burbank suggested a letter from the NECRAC to agencies and some affected communities about the report. She added that there should be a clear executive summary within the report.

Committee Report Review Process

Jensen discussed options for soliciting committee feedback to the draft report produced by the Drafting Committee meeting in June.

The committee discussed several technical options for editing and commenting on the draft report. It was agreed the approval process for the report would be conducted by either conference call or electronically.

In terms of timing, Emerson reminded the group that the term of the committee's charter ends at the end of September. There was a suggestion that the Drafting Committee get a draft report out soon so the committee could then see what they will be working with in Wyoming. This way, major comments or changes could be addressed.

There was discussion on what the role of the NECRAC will be once the final report is complete. Emerson asked what role the NECRAC could play in the delivery of the report. Also, if the committee were to be rechartered, it would be in the winter when the Institute has more information about its FY05 and FY06 funding levels.

The Committee discussed the option of continuing the NECRAC for implementation of the recommendations. It would be important to clearly define what the Committee would do if it were re-chartered for another two years. The members of the Committee should have the opportunity to comment on this definition. This has to be done before people are willing to commit for another two years.

Scarlett commented that having the report and recommendations finalized would help to identify what a future committee would need to do next. She added that there were other mechanisms for working committees to implement some of the work that doesn't require a FACA-chartered committee.

The Chair recommended extending the term of the NECRAC through the end of the calendar year, which would allow the Committee some time to talk about the possibility of a next term.

Meeting adjourned: 11:40am